

NOT VOTING—7

Alexander	Klobuchar	Warren
Booker	Perdue	
Cardin	Sanders	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table and the President will be immediately notified of the Senate's action.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 1:12 p.m., recessed until 2:15 p.m., and reassembled when called to order by the Presiding Officer (Mrs. CAPITO).

EXECUTIVE CALENDAR—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the following nomination, which the clerk will report.

The senior assistant legislative clerk read the nomination of Matthew H. Solomson, of Maryland, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

The PRESIDING OFFICER. The Senator from Texas.

IMPEACHMENT

Mr. CORNYN. Madam President, before Congress adjourned for the holidays, our colleagues in the House of Representatives carried out their sole priority for 2019, which was to impeach President Trump. That was their No. 1 objective in 2019. While it is no secret that this is something they have been dreaming of since the day President Trump was inaugurated on January 20, 2017, it certainly took our colleagues in the House on a roller coaster ride and the country as well. I liken it, really, not to a roller coaster ride, but to a three-ring circus. It did not reflect particularly well on their body or on the seriousness of the process.

From March of last year, here is an important quote to remember. Speaker PELOSI cast a lot of doubt that an impeachment vote would even happen. This is from March 2019. She said:

Impeachment is so divisive to the country that unless there's something so compelling and overwhelming and bipartisan, I don't think we should go down that path, because it divides the country. And he's just not worth it.

That is what Speaker PELOSI said in March of 2019.

As we have seen, it was only a matter of time before the radical Members of her caucus forced Speaker PELOSI's hand and sent the House down a partisan impeachment rabbit hole. That is where they ended up. House Democrats dove head first into—as something our majority leader has said here in the Senate—the most rushed, least fair, and least thorough impeachment inquiry in American history. We have

only been through this three times before in American history. This is an extraordinary undertaking under our Constitution, to seek to impeach and remove a President less than a year before the upcoming election over something that does not even allege any crime but rather a disagreement with the way the President has conducted foreign policy, which is his role under our Constitution.

For as long as Democrats have been dreaming about this moment, you would think they would be well prepared for a thorough investigation and a presentation of their case to the Senate. Well, as it turns out, that is not even close. They moved through closed door depositions, public hearings, and a vote at an alarming pace, all to ensure that they could wrap up the process by the end of the year. Before the clock struck midnight, they managed to get it done.

Despite Speaker PELOSI's insistence less than a year ago that impeachment should be a bipartisan process, the House passed Articles of Impeachment with votes from just one party, which is the definition of partisan, not bipartisan.

In spite of the partisanship that has ensnared this process in the House of Representatives, we in the Senate have vowed to follow the framework set by the only modern precedent for an impeachment trial in the Senate, and that is of President Bill Clinton. In 1999, all 100 Senators, including both the current majority and minority leaders, voted in support of a pretrial resolution that laid the foundation for the trial ahead—this was in fairness to all concerned—so that the Senate could know how this would proceed and what they would be called upon to do.

Back in 1999, all 100 Senators decided to begin with opening arguments, to move to Senators' questions, and then to vote on a motion to dismiss. This would provide an opportunity to hear the case presented by the parties before the decision was made whether to hear from additional witnesses. I might add that I believe the House heard from 17 different witnesses.

All of the testimony certainly could be presented by the impeachment managers in the Senate. Sometimes, I hear people talking about whether we are going to have any witnesses or not. Well, of course, but witnesses come in different shapes, sizes, and form. There could be a live witness. There could be a witness's sworn testimony presented in a hearing or at a deposition outside of the Chamber and excerpts are read into evidence in the impeachment trial. This is not a question of whether we are going to have any witnesses or no witnesses. This is going to be a question of whether we are going to allow the impeachment managers from the House and the President's lawyers to try their own case. In an ordinary civil or criminal case, you don't have the jury trying the case for the prosecution or the defense or for the plain-

tiff or the defendant. The role of the jury is to sit and listen and then to decide after the evidence is presented.

Well, when the time came to vote on the motion to dismiss, during the Clinton trial, every single one of our Democratic colleagues who were here in 1999 voted to dismiss the charges—every single one. That was the Clinton trial in 1999. Then, when Members voted on whether or not to hear additional witnesses, every single one of our Democratic colleague who were here in 1999 voted no—no additional witnesses. Everyone voted no. That includes our friend the minority leader, Senator SCHUMER, who said on the Senate floor yesterday that everyone who is opposed to additional witnesses is participating in a coverup. Talk about a change of heart. You know that is the danger here in the Senate. If you have been here long enough, you can find yourself on the opposite side of almost any question that could come up. Certainly, Senator SCHUMER has found himself, first, saying in President Clinton's case no additional witnesses and, now, in the case of President Trump, he has changed the standard and says, if you don't vote for additional witnesses, you are somehow engaged in a coverup.

Well, I think people are smart enough to understand what that represents. It represents not only a change of heart, but it represents hypocrisy and a double standard.

When President Clinton was on trial, Democrats had zero interest in hearing from additional witnesses beyond that presented by the impeachment managers and the President's lawyers or spending more time on the trial. The way they saw it, all the information had been presented, and so they voted to throw the charges out. Now, I am not faulting them for that, per se. All 100 members agreed to the process that gave them the opportunity to make that vote, and they had every right to do so. Now that a Republican President is on trial, instead of a Democrat, our Democratic colleagues say the same process is not good enough. In other words, what was good enough for President Clinton is not good enough, in their opinion, for President Trump.

Instead of following the exact same framework used in the Clinton impeachment trial, they want to set the rules for the entire trial before we have even had a chance to hear the opening arguments. Here, again, I realize we have a lot of type-A personalities here—people who like to take charge—but that is not the role of the Senate during an impeachment trial. We are here to listen to the case presented by the impeachment managers from the House and the President's own lawyers, not to try to take over the process. In fact, the hardest thing a Senator is going to have to do during this impeachment trial is to sit and be quiet and let the parties present their case.

Well, our Democratic colleagues are even going so far as requesting specific

witness lists even before NANCY PELOSI has sent the Articles of Impeachment over. They obviously are having buyer's remorse about voting out Articles of Impeachment now and essentially admitting that the evidence is so flimsy that it needs to be bolstered by additional witnesses here in the Senate. Well, I am sure it comes as no surprise that Senate Republicans are not on board with this partisan approach to impeachment.

As you can imagine, NANCY PELOSI isn't happy that the power to make this decision is in the Senate's hands. One thing I have learned here in the Senate and in the Congress is that the Senate and the House are pretty jealous about the prerogatives of their body to be able to make decisions for themselves. The last thing the House ordinarily wants to do is have the Senate tell them what to do. Certainly, the opposite is true. The last thing the Senate wants to do is to have the House try to direct how the impeachment trial is conducted here in the Senate. Well, that is not the way it works, and that is not going to happen.

The Speaker has pulled the emergency brake on this rushed impeachment process and is refusing to send the Articles of Impeachment over here to the Senate because she doesn't think the framework used in the Clinton trial is good enough. She is now trying to use her role as Speaker of the House—admittedly, a very powerful position in our Congress—to try to make the rules of the Senate. She wants to set the parameters for what the Senate's trial will look like, which is not in her job description. I know it is a terrible revelation, but it is beyond her authority, beyond her power, and it ain't going to happen.

The way I see it, this dogged determination to interfere in the Senate process isn't because the framework we are planning to use is unfair or partisan. Obviously, all the Democrats who were here during the Clinton trial agreed to a similar process then, and now they want to change the rules for President Trump.

Speaker PELOSI also wants the Senate to do the work that Members of her caucus were either too rushed or too lazy to do for themselves. Ordinarily, if the charges are going to be brought, let's say, in a criminal case, there would be an indictment, and then the case would be presented. It would rise or fall based on the presentation of the prosecutors.

Well, here, I think the analogy is apt that it is the responsibility of the House to prove the Articles of Impeachment that they have charged. It is their responsibility, not ours. We are supposed to be the jury.

Speaker PELOSI knows, as we do, that the House did not do a good job in investigating the facts, and she thinks the Senate should mop up after the House created the mess that they did. That is not going to happen.

The House had ample opportunity and time to look at all the facts. The

problem the House has is that the facts they have discovered and alleged simply don't represent a high crime and misdemeanor, much less bribery or treason, which are the constitutional standards for an impeachment. What they have is a disagreement on the manner in which foreign policy was conducted with a President whom they hate. That is the reason they have impeached President Trump. It is not because of any bribery, treason, or high crimes and misdemeanors. As a matter of fact, they don't even charge a crime. What they do is charge obstruction of Congress.

Here is what happened. ADAM SCHIFF, the chairman of the Intelligence Committee, issued subpoenas to certain witnesses. The White House said: Hey, wait a minute. We believe we have a valid claim of executive privilege. Ordinarily, that would then go to a court, and the court would say yes or no or cut the baby in half.

But when the witnesses said we need to go to court for direction, ADAM SCHIFF dropped them like a hot potato and didn't even bother to call the witnesses or go to court to pursue the testimony he said was important. Now, that is on him. That is not on President Trump. To claim that their own mismanagement of the impeachment inquiry is grounds to impeach the President for obstruction of Congress would be laughable if it weren't so serious.

At their own volition, they rushed through the impeachment inquiry with reckless abandon, and it is not the Senate's job to reopen and redo their inglorious investigation.

The Senate's role, as I said, is to take the evidence compiled by the House and presented by the impeachment managers and conduct a trial based on the evidence that they present, not to somehow initiate a new investigation before we have even heard from the impeachment managers from the House, or to somehow say: Well, we are going to essentially become the impeachment managers ourselves, a role that the Constitution gives to the House and not to the Senate.

The Senate's role is to listen and to decide, not to try to hijack the process and to try to do something for the House that they have been unable to do themselves. Once the Speaker transmits the Articles of Impeachment to the Senate, the House's role as a body is done, and they speak and act through the impeachment managers, who will be presenting the case on behalf of the House.

When the Speaker decides to send the Articles of Impeachment to the Senate, we will be prepared to do our job. And unlike the House, we will do so in a serious and deliberative fashion and perform our constitutional duties under the Constitution and the rules of the Senate with regard to impeachment trials.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

FOREIGN POLICY

Mr. MENENDEZ. Madam President, for over 3 years now, everyday Americans, Members of this body, our diplomatic corps, and our allies and adversaries alike have wondered whether there is any sort of coherent strategy guiding the national security and foreign policy of President Donald Trump. If the events of recent days are any indication, the answer is a resounding no.

The Trump administration has no vision for how we might build a world that is more stable, peaceful, and prosperous for future generations. To be sure, the administration has some serious reports outlining global challenges and nicely drafted statements proclaiming their "America First" strategy. In practice, the President's erratic leadership and failure to invest in the very institutions we need to promote American national security have sowed chaos and increasingly left America alone. Our Nation has faced great challenges before. Yet, having served nearly three decades in Congress, I cannot recall a time when so many of them were of our own making and as predictable as they were avoidable.

Simply put, President Trump's foreign policy, like President Trump himself, is completely shortsighted, self-interested, and transactional.

The President's abandonment of our core values has already eroded America's standing abroad. Near the end of the last administration, the Gallup organization found that 48 percent of respondents in more than 100 countries worldwide had confidence in the United States. Today, it has gone from 48 percent to—it hovers around 31 percent. Furthermore, more people around the world likely trust—according to the poll—China or Russia rather than the United States.

I know that national security is not a popularity contest, but the erosion of America's standing in the world matters because it makes it less safe for Americans. It undermines our diplomacy. It hinders economic opportunity. It undercuts our ability to promote our values, betraying our centuries-long vision of our Nation as a city on a hill.

Our Nation was founded on noble ideals. It is those ideals more than our unrivaled economic strength and more than our unparalleled military might that have rallied the world to our side—from the defeat of fascism in Europe, to the rise of international institutions and security partnerships, and to the fall of the Berlin Wall and beyond.

President Trump has squandered this precious resource of our values—our "soft power"—through actions that betray our ideals, abandon our allies, and appease our enemies. Far from America First, this administration is leaving America isolated, corrupted, and behind. We see it again and again—from Ukraine, to Syria, to Iran and beyond.

Consider Russia. Even as our intelligence community and bipartisan congressional reports point to “incontrovertible” proof of Russia’s interference in our 2016 elections and plans to do so this year in 2020, to this day, the President’s own fragile ego still prevents him from even acknowledging the threat, let alone standing up to continued Russian aggression.

Turn to North Korea. Two years ago, the President said that he had achieved a breakthrough and that we didn’t have to worry about North Korea anymore and we could sleep well at home. Yet, despite all the made-for-TV moments, his poorly conceived and poorly executed effort has left North Korea a greater threat in 2020. Under President Trump’s watch, North Korea has expanded its nuclear arsenal, successfully tested its first intercontinental ballistic missile, and conducted its most powerful nuclear testing. His administration has undercut our critical defensive alliance with South Korea and Japan and walked away from serious sanctions enforcement.

Nearby in China, the administration’s efforts have failed to change China’s actions in the South China Sea, resolve the structural issues at play in our trade relationship, or address its worsening human rights and governance behavior—from the crackdown in Hong Kong, to the oppression of the Uighurs, to China’s growing economic and technological influence, used to spy and oppress.

Turning to the Western Hemisphere, a year ago, the President rightly denounced Maduro but misleadingly declared the success of his Venezuela policy. Today, the President sits silently as millions of Venezuelans fleeing a massive humanitarian crisis and the hundreds of thousands of Venezuelans already in the United States remain in desperate need of temporary protected status.

President Trump says he wants to confront the root causes of migration. He says he wants to combat drug trafficking and the opioid epidemic. Yet he has repeatedly weakened our counter-narcotics, law enforcement, and development operations in the Northern Triangle and Mexico, while continuing to push for a border wall he promised the American people Mexico would pay for.

The administration’s abhorrent treatment of asylum seekers—from separating children from their parents to placing people in cruel and inhuman conditions—has only further weakened America’s moral standard. Likewise, President Trump’s functional destruction of our Refugee Resettlement Program and the slashing of refugee admissions to the United States not only damage America’s reputation as a beacon of hope for vulnerable people around the world but deprive us of the contributions refugees have always brought to our economy and our communities.

We also face immense challenges like climate change. Yet, even as our close

ally Australia faces the most deadly conflagration, this administration continues to deny a threat that is already costing American taxpayers billions of dollars in the wake of increasingly severe storms, fires, and floods.

Withdrawing from the Paris climate agreement was a gross abdication of American leadership, one that has allowed China—yes, China—to position itself as the world leader on clean energy.

The Trump administration has also ceded ground at the United Nations to China and Russia. Recently, China beat us out for a leadership seat at the Food and Agriculture Organization, while Russia won out support for its cyber crime treaty.

While the administration may seek to explain away these losses on an individual basis, this is, in fact, the steady drip, drip, drip of the loss of American power and influence due to President Trump’s abject mismanagement.

Turn now to Africa. At a time when our allies, as well as adversaries like Russia and China, are ramping up their engagement, the United States is pulling back. Indeed, Secretary Pompeo has visited Kansas on multiple occasions during his tenure, but he has yet to visit a single sub-Saharan country.

Likewise, we see a complete absence of diplomatic strategies for challenges across Africa, from preventing a return to conflict in South Sudan, to supporting the democratic transition in Ethiopia, to curbing terrorism in the Sahel. The recent tragic deaths of Americans in Kenya demonstrate a lack of progress in weakening terrorist organizations like al-Shabaab and Boko Haram.

Likewise, for a year, the administration failed to waive human trafficking sanctions so that USAID could adequately respond to the deadly Ebola epidemic in the Democratic Republic of Congo.

On human rights, the Trump administration’s approach is, in one word, abysmal. The administration supported the Saudi-led campaign in Yemen amid credible reports of despicable war crimes. It stood silent on the killing of Washington Post reporter Jamal Khashoggi at MBS’s direction. It has downplayed human rights and democratic backsliding in Honduras, Guatemala, the Philippines, Burma, Turkey, and beyond.

Likewise, the Trump administration has rolled back the rights of women and girls worldwide, from cutting off funding for lifesaving maternal care they falsely claim promotes abortions to reinstating the global gag rule. It has also set back the clock on equality and protection for LGBTQ citizens in international instruments at the U.N. and elsewhere.

I want to remind my colleagues why America must champion human rights—not just because it is right, although it certainly is right, but because democracy and respect for human freedom are the foundation of a

safer, better world for the American people to thrive in.

As the President abdicates our leadership and undermines the institutions we worked decades to help build, we have witnessed attacks on some of America’s closest friends. President Trump’s verbal broadside against the United Kingdom, Canada, Australia, and South Korea, just to mention a few—the latter during the ongoing nuclear standoff with North Korea—are deeply regrettable and completely counterproductive. This is not how America leads the world; this is how America finds itself alone, isolated, and more vulnerable.

This administration has attacked the very idea of diplomacy. They proposed enormous cuts to the State Department’s budget, removed senior diplomatic leaders with no replacements, and marginalized the State Department’s input on key decisions.

Finally, nowhere in the world is President Trump’s reckless foreign policy and total lack of strategy more painfully obvious than the Middle East.

Let me be clear: I do not shed a tear for Qasem Soleimani. As a commander of the IRGC Quds Force, he was responsible for the deaths of hundreds of Americans and supporting terrorism throughout the Middle East. Previous administrations kept tabs on Soleimani’s whereabouts, both Republican and Democratic alike, but they always chose not to act against him because the decision was that the action against him—the value of that was of less value than the consequences of retaliation and long-term military action.

The President must come to Congress and present clear and compelling intelligence as to why this strike against Soleimani was absolutely necessary. What was the imminent threat Soleimani uniquely possessed? We need to know if the threats we face have materially changed.

In the wake of all of its misleading statements, we must make clear to the administration that the President by himself does not—does not—have the authority to launch a war against Iran.

Let me send the President a message. Attack on cultural sites are war crimes. They are war crimes. We observe international law not only because it is right but because then we can demand other countries to observe international law as well.

The consequences of President Trump’s strike on Iranian Commander Qasem Soleimani are unfolding as we speak. Already, the Iraqi Parliament has called for an expulsion of American forces. Now there is confusion about what U.S. policy is. Are we keeping troops to fight ISIS? Are we going to start sanctions on Iraq? Confusion. Contradiction. Chaos. Amid such confusion, the one thing that has taken place for sure is that instead of our mission there to fight ISIS, we are now having to recalibrate to use that mission to protect our own forces there. What a reprieve ISIS gets.

Despite what the President may say, Iran is not a different country than it was 2 years ago. Iranian-backed protesters just stormed our Embassy. Previously, they were storming Iranian Embassies. The Iraqi people were storming Iranian Embassies because of Iran's influence in Iraq. Now they are out massively protesting against us.

A regime that continues to oppress its own people and its proxies now has a solidified populous behind it. Soleimani's legacy, ultimately, is that what he could not achieve in life, he may very well have achieved in death—pushing the United States out of Iraq.

It is no secret that I did not support the Joint Comprehensive Plan of Action, but let's be clear: Today, Iran is closer to a nuclear breakout than when President Trump took office, and we have isolated ourselves from the international alliance that we have built to constrain Iran's ambitions.

Meanwhile, in Syria, the President's greenlight for Turkey's incursion has weakened American interest in the region, allowed Russia to grow its influence, and opened the door for ISIS to reconstitute.

By turning our backs on the Kurds, we signaled to the world that we will abandon our allies on the battlefield. And while the President promised to stop endless wars in the Middle East, over the weekend, thousands of military family members are unexpectedly saying goodbye as their loved ones receive orders to do just the opposite.

President Trump has not brought the American people a more peaceful, a more stable, and a more prosperous world. On the contrary, the President has brought us closer to war, closer to facing a nuclear-armed Iran, closer to facing an existential threat to Israel, and closer to witnessing a destabilizing arms race and greater conflict in the entire Middle East region, fueled by emboldened Iranian proxy forces.

A show of strength with no strategy in place is no show of strength at all.

President Trump spent the better part of 3 years on the golf course, eviscerating the clear lines between a President's responsibilities to the American people and his devotion to his own wallet. The President and his family continue to put their business interests over America's interests.

The President has flouted the Constitution's emoluments clause and shredded decades of ethical norms by refusing to divest himself from the Trump Organization. He and his family maintain unprecedented business interests in real estate projects in about 20 foreign countries that undoubtedly entangle him with foreign governments whenever local cooperation or financing is needed. It is clear that that creates a conflict that does not put the Nation's interests first.

He operates with no moral compass. Indeed, the President's pursuit of his own personal profit at the expense of America's national security interests in Ukraine led to his impeachment by the House of Representatives.

I urge my colleagues to remember why America's conduct on the world stage matters, why our values matter, and why our leadership matters.

We strive to create a more peaceful and a more stable world so that we can protect the security of Americans at home, so that we can create greater prosperity and economic opportunity for our people, and, at the end of the day, avoid at all costs a need to send our sons and daughters to war.

Every President faces new threats that challenge our quest for this brighter future. We have worked hard to create institutions and provide resources to help every administration navigate this increasingly complex world. We pray that the moral character of every President provides them with the foresight and judgment necessary to protect American security and our strategic interests when it matters the most. Instead, President Trump has taken difficult security challenges and made them even harder to resolve. That is why Congress's role in shaping and advancing U.S. foreign policy has never mattered more. That is why I will continue to advance strategic legislation from Turkey to climate change, to new Ukraine support to conduct oversight, and to speak on behalf of the American people and the values and norms that define us and our place in this complicated world.

Here in the Senate, we have an obligation. We cannot cynically look the other way or be silent or enable that which we know to be wrong, risky, and morally reprehensible. History will not judge us kindly if we do. I, for one, will not stand idly by and be judged that way.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Madam President, I come to the floor today following the U.S. airstrike in Iraq, the airstrike that killed Iranian's terrorist mastermind.

I fully support President Trump's decision. As Commander in Chief, I believe he had an obligation to do what he did to act when American lives were at stake. With the death of Iran's General Soleimani, the American people and people around the world are much safer.

This general was an emboldened, blood-thirsty terrorist. He was a killer. He has the blood of countless people around the world on his hands.

In the last 2 months, we have seen 11 attacks—11 attacks—on U.S. forces and bases, including the killing of an American citizen.

He became bolder and more aggressive in both his actions and his ambitions, and he was stepping up his attacks on Americans. In fact, General Soleimani was at war with the United States his entire career, and it was a military career. He was the commander of Iran's terrorist network.

In recent months, we watched as he personally directed brazen attacks on

our Embassy and our personnel in Iraq. We knew that more attacks were coming, so the United States took action.

Soleimani's death makes America safer in the long run. Taking out this war criminal will help us avoid war in the future.

Let me be clear: I don't want war with Iran. The United States does not want war with Iran, but we know that appeasement does not work. The Obama administration's strategy of wishful thinking failed.

Soleimani's terrorist network was made more powerful by U.S. money. The Obama administration gave billions and billions of U.S. dollars as part of that Iran nuclear deal. What did they do with the money? They used the money to support terrorists around the world. Without a doubt, appeasement brought only failure. It made Iran stronger, and it hurt the United States and our allies.

We know that the winning strategy is peace through strength. We knew it through Ronald Reagan, and we know it today. Already, U.S. sanctions on Iran have been crushing and crippling. We must continue President Trump's maximum-pressure campaign. Now Iran knows the United States means what it says. We are prepared for retaliations, should they come.

This past weekend, Joe Biden actually said that Iran is in the driver's seat. Iran is not in the driver's seat; Iran is in the center of the bull's-eye.

U.S. forces will respond. We will respond to any future attacks on Americans or Americans' safety, and we will do it swiftly and with a punishing response.

It will be a grave mistake for Iran to further escalate tensions. Instead, what Iran ought to do is dial down its aggressive nature and posture.

The facts are these: General Soleimani was a blood-thirsty terrorist. He had the blood of innocent civilians on his hands, and he would have killed many more if given the chance.

This general spent his entire career at war with the United States. He was responsible for the deaths of American soldiers—hundreds of deaths with IEDs—and for the maiming of American soldiers with roadside bombs. Thousands of Americans have been permanently disabled because of him.

Thankfully, the general's 20-year reign of terror has now ended, and there is broad condemnation all around the world over the mass destruction and the death that he caused. It is now time for Iran to take a step back, away from nuclear weapons, away from terrorism, away from aggressions, and to come to the table. It is time for them to discuss peace.

Thank you.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. KAINE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. BLACKBURN). Without objection, it is so ordered.

WAR POWERS RESOLUTION

Mr. KAINÉ. Madam President, I rise today to discuss the War Powers Resolution that I filed on Friday, January 3, with Senator DURBIN.

I spoke yesterday at some length about the painful history of relations between Iran and the United States and the escalating tensions in the last 3 years that have brought us to the brink of war. As we stand at the brink, with military actions by Iran and the United States causing battlefield casualties on the other side, I believe that it is imperative for Congress to reassert itself and make plain that no President should have the ability to take the Nation to war on his or her own.

Let me talk about the Constitution and about the value judgment underlying the allocation of war powers in the Constitution and then the resolution that is now pending, having been filed in the Senate.

First, on the Constitution, the Constitution as drafted in 1787 has a series of provisions. Some are somewhat vague. In the Bill of Rights, what is an unreasonable search? Some are extremely precise. You have to be 35 years old to be President. If you look at the Constitution, you can see a variety of provisions, some more specific and some a little more open-ended.

Actually, the war powers part of the Constitution—though not completely without ambiguity—is one of the clearest parts of the Constitution. In article I, the power to declare war is given to Congress, not to the President and not to the Judiciary—to Congress.

In article II, the President is declared to be the Commander in Chief of the military. If you read the constitutional debates at the time, what emerges is a fairly clear understanding by those who were at the Constitutional Convention in Philadelphia that was both clear but also quite unusual. The understanding was that for a war to start, Congress should vote for it to be initiated, but then, once started, the last thing you would need is 535 commanders in chief. So once Congress had voted to start a war, at that point the prosecution of the war becomes for the President and the military command, not to be micromanaged by 535 Members of Congress.

This was fairly clear, and it was very unusual. It was very unusual because at that point in history, in 1787, war and the declaration of war was not primarily legislative. It was for the executive. It was for the King, for the Monarch, for the Pope, for the Emperor, or for the Sultan. War had been, throughout history, an executive function, not a legislative function. But the Framers of the Constitution and the constitutional debates made plain that they were really trying to change human history, at least in so far as the United States went. Then, in this country, the

initiation of war would be done by Congress.

Why was it done that way? Well, we have the virtue of a Virginian who was not only one of the drafters of the Constitution but who kept notes of the Constitutional Convention and then wrote letters about what they intended. Ten years after the Constitution was written in 1787, James Madison wrote a letter to Thomas Jefferson and directly addressed why it is that the power to declare war is something for Congress. He said this: "The Constitution supposes, what the History of all Governments demonstrates, that the Executive is the branch of power most interested in war, and most prone to it." For this reason, we have "with studied care, vested the question of war in the Legislature."

They recognized that Executives were prone to war, and they wanted the legislature to have to sign off on the initiation of war. It was unusual then, and it is unusual now that the initiation of war is to be left to the legislature. Why is that provision in the Constitution? Why would we want to leave the question about whether war should be started to Congress rather than let the President do it as would be the case in other nations? It is about a value judgment.

As important as the constitutional provision is, I would argue that what is more important is the value judgment that underlies this requirement of congressional authorization, and the value judgment is about the men and women who serve in our military. Any war runs the risk that the young men and women who serve in our military could lose their lives or could be injured or could see their friends lose their lives or be injured. When we send troops into war, they may suffer an injury—traumatic brain injury, post-traumatic stress disorder—that will affect the entire remainder of their lives in dramatic ways. If we affect their lives in that way, we affect the lives of their families and friends.

The value judgment that sort of served as the pillar behind the provision that says Congress has to authorize war is this: If we are going to force young men and women to risk their lives, it should be based on a considered and open debate and a vote in full view of the American public. Then, there should be a vote about whether we are at war. If at the end of that debate—with the questions that get asked and the trading of perspectives—before the people's elected legislative branch, the legislature says that this is in the national interest and we should be at war, then, for those men and women who serve—yes, they are going to serve and risk their lives and risk their health and risk what might happen to them for the rest of their life—we will only ask them to do that if there is a considered judgment that war is in the national interest.

That is the value judgment that underlies the most unusual part of the

Constitution, that war can't be started except by Congress. If we have that debate and vote, then, it is a fair request to ask that of people—like my boy in the Marines or the 1 million-plus people who serve in the military. It is a fair request to deploy them and have them risk their lives.

But how dare we order troops into harm's way, where they could risk their lives or health possibly for the rest of their life, if we in Congress are unwilling to have a debate and have a vote. Sadly, throughout the history of this country—and this is a completely nonpartisan statement—with Whigs and Federalists, Democrats and Republicans, and with different parties in control of the legislative bodies and different parties represented in the White House, Congress has managed to figure out a way to avoid debate and avoid voting if they can.

War votes are tough. I have had to cast two during the time I have been in the Senate as a member of the Foreign Relations Committee. I have cast thousands of votes in my life as a city council member and as a Senator. I will tell you that a war vote is categorically different than any other vote you will ever cast. They are hard. They can be unpopular. There are going to be bad consequences of a war vote. There may be an understandable human tradition in Congress to try to avoid it, but it is a responsibility that cannot be avoided. How can we order people to risk their lives when we are unwilling to risk the political challenges of a vote on war? That is the constitutional history. That is why the article I branch—the first among equals—is charged with the responsibility of initiating war, and that is the value judgment that underlies that constitutional provision.

What does our resolution do? Our resolution is filed pursuant to the War Powers Act. The War Powers Act was passed at the tail end of the Vietnam war. Senator DURBIN did a good job yesterday of sort of going into the history of the passage of the War Powers Act. The War Powers Act was trying to do two things. In the aftermath of the Vietnam war, they were analyzing what had gone wrong during it. There were a number of points along the way where the President did not keep Congress informed. There was a bombing campaign that started in Laos, for example, during the Vietnam war, about which Congress wasn't informed, and there were activities in Cambodia about which Congress wasn't informed.

Then, the second thing we were trying to do was not just to require Presidents to inform Congress but also to give Congress the ability to have a debate and have a vote on the floor in case the President started hostilities without coming to Congress. The President should keep Congress informed and not hide the ball from Congress, and Congress needs a procedure to stop a war that is initiated by a President who doesn't come to Congress.

Here is the procedure under which we have filed our resolution. If a President

puts U.S. troops into hostilities without a congressional authorization—even if the President claims a legal right to do so—self-defense, article II power—but if the President puts U.S. troops into hostilities without a congressional authorization, any Member of Congress can file a resolution to remove the U.S. troops from hostilities and force a vote on that resolution within a prompt period of time. That is the resolution Senator DURBIN and I filed last Friday.

President Trump has engaged the United States in hostilities with Iran. People have different points of view about whether that is a good thing or bad thing, but now that there are battlefield casualties on both the U.S. and Iranian sides, it is clear that this provision of the statute has been met. We are engaged in hostilities with Iran. Not only are the United States and Iran engaged in hostilities that have inflicted casualties on the other side, but the President is essentially acknowledging that we are in hostilities because he is sending War Powers notices to Congress—one in November and one last Saturday—reporting on his actions and saying that the reports are consistent with the War Powers Act. He recognizes that hostilities are underway.

The current hostilities are not pursuant to a previously passed congressional authorization. The 2001 authorization for use of military force authorized military action against the perpetrators of the 9/11 attack. Iran was not a perpetrator of the 9/11 attack, and there is no argument that they are covered by that authorization. There was a separate authorization passed by Congress in 2002. That is the most recent one that has been passed. It authorized action to topple the Iraqi Government of Saddam Hussein. That government is long gone, and that authorization does not permit attacks on Iran or on the current Iraqi leadership, such as the individuals who were killed in the two sets of U.S. strikes. With these two threshold questions met, hostilities are underway as defined by the War Powers Act, and they are not subject to a previous congressional authorization.

We have now filed a resolution to get Congress to reassert its constitutional role. The resolution demands that U.S. forces be withdrawn from hostilities against Iran unless Congress affirmatively passes a declaration of war or authorization, or the United States needs to defend itself from an imminent attack.

If my resolution passes, Congress would still have the ability to pass an authorization, if it chose to, and the United States would still be able to defend itself against imminent attack, but the President could not act on his own to start a war with Iran except in those circumstances.

The resolution does not require that U.S. troops withdraw from the region. We are doing many things in the re-

gion. Thousands of Americans are there partaking in missions that increase the security of the United States and our allies. There is no requirement that we withdraw from the region. These missions include security cooperation with partner forces, fighting against elements of al-Qaida, ISIS, and the Taliban, and ensuring the safe passage of commercial vehicles through freedom of navigation operations. All those activities that are being conducted by the United States in the region can continue.

The resolution does not hold those forces into question or question their mission.

The only thing the resolution would accomplish, if passed, is to back the U.S. troops away from engagement and hostilities with Iran unless for imminent defense or pursuant to a separate authorization.

I would hope to have the support of all my colleagues on this resolution. Its passage would preserve the option of U.S. military action for self-defense. It would preserve the ability of Congress to declare war or pass a war authorization. It would only prohibit this President or any President from taking us to war on his own.

I heard one colleague say: “The last thing America needs is 535 Commanders in Chief.” I completely agree. Once Congress authorizes a war, it should be up to the Commander and the military leadership to wage that war and make the tactical decisions about how to fight it, but the question of whether we should be at war at all is one that is specifically left to Congress.

Let me finish by again focusing on our troops. So many members of the military were home for the holidays, enjoying time with their families, and then received surprise notices that they must redeploy to the Middle East yet again.

Imagine the cost of two decades of war on these troops and their families. Some of these folks have deployed over and over and over again. Imagine being at home at Christmas and receiving the notice you have to deploy yet again to the Middle East.

We are living in a challenging time. Many Americans know nothing but permanent war. We have been at war since 2001. There are Americans, including Americans in the military, that that has been their whole life. That is all they know. Yet, at the same time, many Americans know nothing about war. Because we have an all-volunteer service, many American families are completely untouched by the war. Only 1 percent of our adult population serves in the military.

We have an interesting dynamic that may be sort of unique to our history, whether we have been at war for 20 years and some only know permanent war, while many other American families know nothing about war because members of their families don't serve in the military.

We put war on a footing where it can go on forever, sort of like on “Executive autopilot” by Presidential order, and Congress, in my view—and, again, this is bipartisan—has hidden from its responsibilities.

At this moment of very grave danger, where both Americans and Iranians are losing their lives in hostilities, it is time for Congress to shoulder the burden of making the most important decision we will ever face. That is why I intend to bring this resolution to the floor of the Senate and ask my colleagues to debate and vote on it in the coming weeks.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MARKEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—
S. CON. RES. 32

Mr. MARKEY. Madam President, Members of the Senate, I rise first to express my grave concern over President Trump's recent actions and words that have brought us to the brink of an unauthorized war with Iran.

Today I am introducing a resolution with Senator WARREN and Senators LEAHY and REED and BOOKER and WYDEN because, on Saturday, President Trump tweeted that his administration is targeting 52 sites, some of which are cultural sites treasured by the Iranian people.

My resolution is very simple. It says that attacks on cultural sites in Iran are war crimes. It is as straightforward as that.

The President would compound the mistake he has made and turn it into something that could be catastrophic for that region, for our country, for the world.

President Trump's repeated threats to add Iranian cultural sites to his military target list is a betrayal of American values. It is wrong. It is a needless escalation which ignores international law and the Defense Department's own policies. Attacking cultural sites is a violation of international law.

Article 53 of protocol 1 to the Geneva Conventions prohibits any act of hostility against cultural objects, including making cultural sites the target of reprisals.

The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, which has been ratified by this body, also prohibits the attack or destruction of cultural sites.

Attacking cultural sites would also violate the Defense Department's own policies. The Department of Defense Law of War Manual states that cultural property, the areas immediately